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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/688,492

10/17/2003

Kevin E. Willey

KWIL-101A

2200

28304

7590

09/13/2005

JEAN M. MACHELEDT

501 SKYSAIL LANE

SUITE B100

FORT COLLINS, CO 80525-3133

EXAMINER

KING, ANITA M

ART UNIT

PAPER NUMBER

3632

DATE MAILED: 09/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/688,492

Applicant(s)

WILLEY, KEVIN E.

Examiner

Anita M. King

Art Unit

3632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 15-19 is/are allowed.
- 6) ☒ Claim(s) 1-4, 10-12, 20 and 23 is/are rejected.
- 7) ☒ Claim(s) 5-9, 13, 14, 21, 22 and 24 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 January 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 10/17/03.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

This is the first office action for application number 10/688,492, Multi-Purpose Upright Stand with Leg Assemblies having Hinge-Fitting, filed on October 17, 2003.

Specification

The disclosure is objected to because of the following informality: on page 9, line 5 "(e.g., 18A-18D) should be deleted and --(e.g. 18A-18D)-- should be inserted before "which".

Appropriate correction is required.

Claim Objections

Claim 1 is objected to because of the following informalities: in line 2, "a" should be deleted and "assembly" should be changed to --assemblies--; in line 7, "a" (second occurrence) should be deleted; and in line 8, "subassembly" should be changed to --subassemblies--. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 2-4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

There is an inconsistency between the language in the preamble and certain portions in the body of the claim, thereby making the scope of the claim unclear. The preamble in claim 1 clearly indicates that a subcombination is being claimed, e.g., "a collapsible apparatus for supporting an article...." This language would lead the examiner to believe that the applicant intends to claim only the subcombination of "a collapsible apparatus," the article being only functionally recited. This presents no problem as long as the body of the claim also refers to the article functionally.

The problem arises when the article is positively recited within the body of the claim, such as, "the article is elongates in shape," in line 2 of claim 2. There is an inconsistency within the claim; the preamble indicates subcombination, while in at least one instance in the body of the claim there is a positive recital of structure indicating that the combination of a collapsible apparatus and an article are being claimed. The examiner cannot be sure if applicant's intent is to claim merely the collapsible apparatus or the collapsible apparatus in combination with the article.

Applicant is required to clarify what the claims are intended to be drawn to, i.e., either the collapsible apparatus alone or the combination of the collapsible apparatus and the article. Applicant should make the language of the claim consistent with applicant's intent. In formulating a rejection on the merits, the examiner is considering that the claims are drawn to the combination and the claims will be rejected accordingly. If applicant indicates by amendment that the combination claim is the intention, the language in the preamble should be made consistent with the language in the body of the claims. If the intent is to

claim the subcombination, then the body of the claims must be amended to remove positive recitation of the combination.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 2,493,978 to Kromer. Kromer discloses a collapsible apparatus for supporting an article (1), the apparatus comprising: first, second, and third leg assemblies; an upper end of each leg assembly pivotally secured to extend from an upper support member (10) in a generally symmetrical fashion; a lower end of each of the leg assemblies pivotally secured to extend from a lower collar support (6); each of the leg assemblies comprising a hinge-fitting (@15) interconnecting first (13) and second (14) elongated subassemblies, the hinge-fitting adapted to permit at least a pivot range of 90-degrees of rotation; and the upper support member adapted to aid in the supporting of the article.

Claims 1, 2, 10-12, and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 2,849,202 to McCombs. McCombs discloses a collapsible apparatus for supporting an article (17), the apparatus comprising: first, second, and third leg assemblies; an upper end of each leg assembly pivotally secured to extend from an upper support member (16) in a generally symmetrical fashion; a lower end of each of the leg assemblies

pivotally secured to extend from a lower collar support (15); each of the leg assemblies comprising a hinge-fitting (@ 29) interconnecting first and second elongated subassemblies, the hinge-fitting adapted to permit at least a pivot range of 90-degrees of rotation; the upper support member adapted to aid in the supporting of the article; the article is elongated in shape; each of the first elongated subassembly is variable in overall length and comprises a plurality of telescoping tubular sections adapted to interlock at a selected length; the upper support member comprises an aperture for accepting the elongated article; the lower collar support is adapted for accepting a lower-end of the article for placement on a ground; a pin inserted through both a through-hole in each of the fork extensions of the upper support member and through a respective one of the upper ends provides the pivotal securing thereof; the upper support member comprises a plurality of fork extensions to which the upper ends of the leg assemblies are pivotally secured; each of the second elongated subassemblies is variable in overall length and comprises a plurality of telescoping tubular sections adapted to interlock; and the telescoping tubular sections of the first elongated subassembly are sized for interchangeability with the telescoping tubular sections of the second elongated subassembly.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over McCombs in view of U.S. Patent 6,050,034 to Krinner. McCombs discloses the claimed invention except for the limitation of an insert having an inner-aperture shaped to accept an outer perimeter of the article. Krinner teaches an anchoring apparatus having a tubular section (6) including an aperture receiving an insert (14). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the apparatus in McCombs to have included the insert as taught by Krinner for the purpose of providing a means for accommodating articles having various diameters.

Allowable Subject Matter

Claim 4 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Claims 5-9, 13, 14, 21, 22, and 24 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 15-19 are allowed.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent 624,662 to Leedy

U.S. Patent 1,064,798 to Walte
U.S. Patent 1,421,398 to Burchess
U.S. Patent 1,769,127 to Finnegan
U.S. Patent 2,031,097 to Bucky
U.S. Patent 2,388,287 to Richardson
U.S. Patent 3,888,057 to Zubke
U.S. Patent 4,570,886 to Mooney
U.S. Patent 4,988,064 to Hoshino
U.S. Patent 5,192,055 to Griggs et al.
U.S. Patent 5,310,145 to Chen
U.S. Patent 5,482,245 to Graves
U.S. Patent 5,515,656 to Mihalich
U.S. Patent 5,836,516 to Van Epps et al.


Leedy discloses a collapsible stand. Walte discloses a tripod having upper and lower collars. Burchess discloses a tree support having an insert. Finnegan discloses a socket reducer for a stand. Bucky discloses an adjustable stand having upper and lower collars for supporting an article. Richardson discloses a portable antenna stand. Zubke discloses a ground anchor with pivoting fluke. Mooney discloses a locking mechanism for a trip and spreader legs. Hoshino discloses a tiltable tripod support. Griggs et al. disclose a brace assembly for fence and gate posts. Chen discloses a floor lamp tripod stand. Graves discloses a tree and pole stand. Mihalich discloses a portable anchorage and fastener. Van Epps et al. disclose a foldable, portable sprinkler system.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anita M. King whose telephone number is (571) 272-6817. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on (571) 272-6788. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Anita M. King
Primary Examiner
Art Unit 3632

September 6, 2005